

December 6, 2017



**Talbot County Planning Commission**  
**Final Decision Summary**

Wednesday, October 4, 2017 at 9:00 a.m.

Bradley Meeting Room

11 N. Washington Street, Easton, Maryland

**Attendance:**

Commission Members:

William Boicourt, Chairman  
John N. Fischer, Jr., Vice Chairman  
Michael Sullivan  
Paul Spies  
Phillip "Chip" Councill

Staff:

Mary Kay Verdery, Planning Officer  
Miguel Salinas, Assistant Planning Officer  
Brennan Tarleton, Planner I  
Elisa Deflaux, Environmental Planner  
Martin Sokolich, Senior Planner  
Tony Kupersmith, Assistant County Attorney  
Carole Sellman, Recording Secretary

**1. Call to Order**—Commissioner Boicourt called the meeting to order at 9:01 a.m.

**2. Decision Summary Review**—September 6, 2017—The Commission noted the following corrections to the draft decision summary:

- a. Line 416, change to read: "Commissioner Fischer stated the berms are going to induce runoff, but they are going to be seeded."
- b. Line 667, change the wording to read: "Commissioner Fischer stated that the family was willing to discuss the issue."
- c. Line 713, the verb should be "do" not "does".

**Commissioner Sullivan moved to approve the draft Planning Commission Decision Summary for September 6, 2017, as amended. Commissioner Fischer seconded the motion. The motion carried unanimously.**

**3. Old Business**

- a. Administrative Variance—Jeffrey G. Huvelle and Ellen S. Huvelle, #A-239—25701 Edgeview Road, Royal Oak, Maryland 21662, (map 40, grid 18, parcel 95, zoned Rural Residential), Jon E. Braithwaite, Atelier 11, Ltd., Agent.

Mr. Tarleton presented the staff report for an administrative variance to expand a legal nonconforming primary dwelling located entirely within the 100 foot Shoreline Development Buffer (Buffer) by 772 square feet (sq. ft.) of Gross Floor Area (GFA) or roughly 19.8% of the existing GFA within the Shoreline Development Buffer. Lot coverage for the entire site would increase from 10,525 sq. ft. (8.4%) to 10,805 sq. ft. (8.6%) of the 15% maximum allowable lot coverage spelled out in the *Talbot County Code* §19-136. The expansion of this

dwelling is to accommodate an elevator (100 sq. ft.), two stoops (82 sq. ft.) and ramps (173 sq. ft.) to allow for handicapped access to the interior and exterior portions of the home. The GFA proposed to be added would be from a second floor addition (572 sq. ft.) and the interior space for the elevator (200 sq. ft.)

Staff recommendations include:

1. The applicant shall make an application to the Office of Permits and Inspections, and follow all rules, procedures, and construction timelines as outlined by regarding new construction.
2. The applicant shall commence construction on the proposed improvements within eighteen (18) months from the date of the Planning Office's 'Notice to Proceed'.
3. As shown in "Exhibit D" of the application, the existing, deciduous canopy tree that is on site must remain intact unless a tree removal permit is applied for and issued by the Environmental Planner.
4. The applicant shall mitigate for the disturbance to the Shoreline Development Buffer with 3 times the disturbance to the buffer. A buffer management plan will need to be submitted in conjunction with the building permit application, if applicable.

John Braithwaite, Atelier 11, appeared on behalf of the applicants, Jeffrey and Ellen Huvelle. He stated this application is fairly self explanatory. Ms. Huvelle broke her back a few years ago and thought she was not going to be able to walk. She is able to walk now and back in the Federal Courts. They are spending more time at this residence. They are trying to set it up with the bedroom situation as right now she has to sleep downstairs.

Commissioner Boicourt asked for public comment, there was none.

**Commissioner Councill moved to recommend to the Planning Officer to approve the administrative variance for a vertical expansion and an elevator for Jeffrey G. Huvelle and Ellen S. Huvelle, 25701 Edgeview Road, Royal Oak, Maryland 21662, provided compliance with staff recommendations occurs. Commissioner Spies seconded the motion. The motion carried unanimously.**

#### **4. New Business**

- a. Major Site Plan— Nagel Farm Service II, LLC c/o David B. Nagel, Jr.—14209 Wye Mills Road, Wye Mills, Maryland 21679 (map 1, grid 10, parcel 7, zoned Village Center), Christopher Waters, Davis, Bowen & Friedel, Inc., Agent.

Mr. Tarleton presented the staff report for a major site plan to construct one additional grain storage and drying facility, 90 ft. in diameter, next to the two

tanks that currently exist on the parcel. The limit of disturbance will total approximately 9,735 sq. ft.

Staff recommendations include:

1. Address the September 4, 2017 TAC comments from the Departments of Planning & Zoning, Public Works, Environmental Health and Soil Conservation prior to CRM submission.
2. The applicant shall commence construction on the proposed improvements within eighteen (18) months from the date of final approval.

Chris Waters, Davis, Bowen & Friedel, Inc., appeared before the Commission on behalf of the applicant. He stated this is Phase II, a continuation of the storage facility which was started several years ago. Two tanks have been installed, the stormwater facility pond has been installed, the grading is completed and waiting for this tank to finalize the site.

Commissioner Fischer asked if the buffer between the homes has been established. Mr. Waters stated the trees are being planted this fall, the sureties are in place and the signage is in place. Ms. Deflaux said the trees have been planted.

Commissioner Boicourt asked for public comments; none were made.

**Commissioner Fischer moved to approve the major site plan for Nagel Farm Service II, LLC c/o David B. Nagel, Jr., 14209 Old Wye Mills Road, Wye Mills, Maryland 21679, all staff recommendations being complied with. Commissioner Sullivan seconded the motion. The motion carried unanimously.**

Ms. Verdery requested that the agenda be amended so that the Maps be reviewed first. She further asked that the actual recommendation be postponed until the November Commission meeting to allow that recommendation prior to the Council's November 14<sup>th</sup> meeting. Commissioner Boicourt approved that change.

- b. Village Boundary Maps—(Bozman, Cordova, Copperville, Longwoods, McDaniel, Newcomb, Royal Oak, Skipton, Tunis Mills, Wittman, Williamsburg and Wye Mills)

Mr. Sokolich stated the Commission had been given a set of maps in two different scales. Map pages as they appear in our zoning maps, which followed what was done in the Comprehensive Plan last year. He stated they tried to straighten up some boundaries because of Critical Area law and some other mapping changes, such as some properties half in and half out of a zone. Mr. Sokolich said the Public Works Department is working to get sewer in the west side of the County and wanted to be sure to retain village character based on the fact they would need less land to obtain the sewage system.

146 Commissioner Fischer stated he has three sets of maps. Mr. Sokolich stated the  
147 last set is actually the Zoning Map, whatever is done with the black and white  
148 map would be cast as revisions to the Zoning Map. The other piece is the Critical  
149 Area Map. We have to take any changes to critical area and get their approval.  
150 Ms. Verdery stated the larger color maps and smaller color maps are what is being  
151 adopted. The small black and white maps are for clarity as to what changed.  
152

153  
154 Commissioner Fischer asked if these were available to the public. Ms. Verdery  
155 stated all of the maps were available on our web page.  
156

157 Commissioner Boicourt asked for comments.  
158

159 Ms. Verdery stated in Claiborne there were two areas that were requested to  
160 remain in the village that were removed because they were state, or federally  
161 owned non-tidal wetlands or open space areas. We do not want those to be zoned  
162 at the village density. They should remain at the Resource Conservation density  
163 of 1 per 20 and have the protections of Resource Conservation to protect them  
164 from possible intense land use.  
165

166 Ms. Verdery asked the Commission to look at the Wye Mills map, the Nagel  
167 Farms parcel which is partially in the village and partially out. We would suggest  
168 modifying that to amend it to be consistent with the property boundary and that  
169 the entire parcel be included in the village. Commissioner Councill asked if there  
170 would be any uses that would keep them from continuing with Phase III. Ms.  
171 Verdery stated the first two phases were approved under VC and it would be  
172 appropriate to continue with that parcel in the VC.  
173

174 Ms. Verdery wanted to clarify some requests in Longwoods that came out of the  
175 public meetings. Johnsons Logging asked to come out of the village and asked  
176 that the parcel be zoned LI. That decision would come with the next phase. The  
177 parcel would come out of the village and into AC which is consistent with the  
178 surrounding zoning. In the next phase will ask if you think that should be  
179 considered, the LI. Ms. Verdery showed the Commission a few other smaller  
180 areas that had made requests but no modifications had been made.  
181

182 Ms. Verdery discussed the Royal Oak map where Clayland Farms has requested  
183 to remain entirely in the village center. Staff has not followed that suggestion  
184 based on the tier maps. This parcel is largely agricultural. It is improved already  
185 with a residence and an agricultural business. We are suggesting that the balance  
186 that is consistent with the current work of the village remain in the village and this  
187 area here has a historic subdivision on Darby Lane that already approved a platted  
188 subdivision that is not on the tax map.  
189

190 Ms. Verdery stated there were multiple different meetings throughout the County  
191 and they received relatively few comments.

Commissioner Spies asked if there was any further consideration in taking more out of the VCs like making Longwoods a Village Center and not making it a long run. Commissioner Boicourt stated they had previously had those discussions. Commissioner Spies stated, as an argument, there are other areas where there is currently agriculture ground and we have this long stretch that is more of a village center. Ms. Verdery stated their goal was to allow the continued opportunity for some of the farmers to have the value of the development rights associated with the VC. Whether they want to use that for the purposes of development or the purposes of preservation, we took a significant amount of value away from them by reducing the size of the village. We did not want to leave them without any opportunity for the value, whether it be creation of new lots or the preservation using the VC density. Commissioner Spies asked if that helps improve their likelihood of getting preservation? Commissioner Councell stated probably not so much in the Maryland Preservation Program but there are significant conservation easements whose value can be applied.

Commissioner Boicourt asked for public comments.

Zach Smith, Armistead, Lee, Rust & Wright, appeared on behalf of Cynthia Rickman, Map 10, Parcel 81 on the north side of Forest Landing Road. Ms. Rickman wanted to express her objections to what she perceives to be the down zoning of her property. She purchased the property in 2008 and at that time the price for the land was based on VC zoning and the development potential under VC zoning. Ms. Rickman objects to the significant decrease to the value of her property. She understands preserving open space and limiting development. That said, Ms. Rickman has no interest in developing her property. Her interests are value, preservation and/or the opportunity to take some sort of economic benefit for giving up development potential based on the conversation the Commission was just having. He thinks Ms. Rickman's ideal outcome would be to explore a conservation easement or a MALPF easement. In order to do that the property must be zoned VC and have the development potential that it has today. A more equitable solution would be to leave her property in the Village of Longwoods VC zoning and allow her to go through that process and get that economic benefit, that is a win-win. The community wins, because of the preservation of open space and agriculture, she wins because she gets an economic benefit for giving up that development potential. We also think that is good for the County because it is permanent. For those reasons, that is a better, more equitable solution.

Jean Bryan, an owner of Royal Oak property. This property in Royal Oak is suggested to have removed over 70 percent of the property from the VC zoning. The value is being significantly impaired by taking it out of the village zoning. The Village zoning has been in place since the inception of village zoning on the property here. Because her family chose to farm the property does not seem to be a reason to now down zone it. There are farmers on the Commission, there are

farmers in the community, there are farmers that own commercial property, so why does the fact that her family chose to use the land for agriculture all of a sudden become a reason for drawing a line in a VC property that has sewer. Ms. Bryan implored the Commission to think of a couple of facts. The VC zoning has been there since the inception. There is sewer to the whole property. There are buildings, currently on the property that are being indicated as zoned out. There is broadband cable there. The fact that this would be a huge impact to her family and to keep the value by retaining the VC zoning. Ms. Bryan asked the Commission to please consider the impairment of value. She stated letters have been written to the Commission and Council by the Chamber of Commerce and the Board of Realtors.

Tom Glover of Thornton Road, adjacent to the Bryan property spoke to the Commission. The property to be developed is part of the headwaters of Edge Creek. Runoff from impervious areas would end up increasing water flow into Edge Creek which is fairly narrow and in need of dredging. The other consideration is that any development in that area would involve vehicular traffic on Route 327/Royal Oak Road. Royal Oak Road is a two lane road that has no shoulders on it. Two dump trucks have difficulty passing on it. In the summer bicyclists use this road to and from the ferry. If you increase traffic on that road it is going to be dangerous. Traffic increase on that road will require additional improvement as the road subsides into the ditches. Those costs will be borne by County residents. The current development plan is four dwellings per acre. The surrounding area is nowhere near that dense. He stated he understands the request for achieving some value for the investment for land. But development should be tempered with what is going on in that area. Four residences per acre seems excessive.

Commissioner Fischer commented on Mr. Glover's statement about current zoning of four residences per acre. He pointed out that zoning in the NextStep190 is recommended at one residence per acre.

Commissioner Spies asked what is the process of the maps from here. Ms. Verdery stated the Council will introduce legislation to adopt the tax maps and the LDA/IDA maps on October 24<sup>th</sup>. The Commission will be asked to make a recommendation on the boundaries and any modifications to those. What was presented to the Commission was consistent with the Comprehensive Plan. Commissioner Spies asked if there were personal concerns or objections when do you present those. Ms. Verdery stated right now. This is the public hearing, we are talking about changes right now. Also in November we will be discussing the maps again.

Commissioner Spies stated they have been down this road before. It is important that we use uniform criteria when dealing with all properties in the mapping process. His concern about the Royal Oak property does not make sense to him based on the criteria. He is not in favor of putting the whole property in. He stated

his big concern is if there is any way to clean the line up and include more of the property in the VC. Ms. Verdery stated just to clarify why the line is where it is. Along Bellevue road, the ending of the line is at the driveway that accesses the residential and businesses on that property. The little area outlined by blue is outside the Critical Area. Ms. Verdery pointed out a piece that was discussed to remain in the village but was taken out because it was forested. So in order not to clear that area and develop it in the village density it was decided to end the property at the driveway.

Commissioner Councell stated he would expect some comments from the Farm Bureau on Longwoods regarding the long stem.

**Commissioner Councell moved to table the maps until the November hearing and keep the matter open until after the County Council has introduced their motion. Commissioner Sullivan seconded the motion. The motion carried unanimously.**

c. Talbot County Code NextStep190 – Modules 1 and 2—Public Hearing and Work Session

Ms. Verdery introduced Jennifer Huff , the ERM Consultant who presented an overview of the draft revisions to the Zoning Ordinance. Ms. Huff stated the updated process began in late 2016 with another consultant who passed the project onto ERM under the County’s request. They received a lot of materials from listening sessions, public meetings and discussions. The ERM consultants were in Talbot County in June for three days of public meetings and discussions. The writings have been divided into three modules for discussions. Ms. Huff explained that the Commission would review Module 1: Articles I, II and III: Introductory Provisions, Zoning Districts and Overlay Zoning Districts and Module 2: Article VI. Nonconforming Lots, Structures and Uses; Article VII. Administration; and Article VIII. Procedures for Subdivision of Land. Ms. Huff stated they are working on Module 3 which will cover the Land Use Table and the Standards for all development, parking, subdivision standards and warp up with definitions. She stated there are two versions of the Modules on the web, straight text and track changes.

**Module 1:**

**Article I**

Section 190-2: Retained the purpose statements that apply to all of Chapter 190. Relocated the purpose statement for the Critical Area to Critical Area Overlay District.

Section 190-3: In Section 3.7 the references to “agriculture” were revised for consistency with “Right to Farm law”. The term “best management practices” was replaced with “commonly accepted agricultural practices” which is broader and covers more types of farming activities.

Section 190-4: Added a “severability” clause; this is generally included in development ordinances. If one portion is found invalid by a court, the remainder remains in effect.

**Article II Zoning Districts:**

Section 190-5: Ms. Huff explained the Zoning Districts were grouped into four categories: Conservation, Residential, Village or Non-Residential.

Setback requirements are simplified. The current Chapter 190 has three sets of required setbacks and lot widths, depending on the lot size. This draft text proposes to have only one set of required setbacks and lot widths.

The average lot size requirements are eliminated for the RC, RR and TR Districts. The “Conservation Subdivision Standards” will be applied to subdivisions in the RC District to help achieve the goals of the deleted lot size requirements. For the RR and TR Districts, the subdivision design standards in the Development Standards will be reviewed and revised to achieve results that were sought through the maximum lot size limits.

Sections 190-8,9,10: The Village Districts are reconfigured as three new districts: Village Mixed, Village Hamlet and Village Residential.

Density and lot size limits are proposed: maximum density of one dwelling unit per acre; minimum lot size of one acre in Village Residential and 30,000 square feet in Village Mixed and Village Hamlet.

A maximum median lot size of one acre is proposed for subdivisions using public sewer in the VM and VH Districts.

Mr. Salinas stated the current Chapter 190 has a similar requirement by averaging the median. If we keep that in and we go to a median lot size, we will get lot sizes keeping with the character of the villages, given the fact that we don’t have a maximum lot size for village parcels. Without the maximum lot size for village parcels you don’t have any assurances that in any subdivision that you are going to have lots keeping in character with the villages. Commissioner Boicourt stated there were examples where there were small traditional types of villages with people building ten to twenty acre lots which was not necessarily positive. Commissioner Fischer asked if that was also the thinking in the VH districts of the 30,000 square feet lot size? Most of the cases he is trying to imagine are VR, not VM. Is it appropriate to have a 30,000 square foot lot associated with the hamlet.

Ms. Huff conceded the Commission and staff know the villages far better than ERM does, but as they surveyed the villages they saw where some small scale commercial would be appropriate. So they wanted the flexibility of allowing



down to three-quarters of an acre. But they wanted to distinguish where the hamlet and the mixed would be applied to the villages.

Commissioner Boicourt stated perhaps that could be something they could look into. He stated they could look at the particular villages and the density to make sure they could defend them.

Ms. Huff went on to state that a maximum floor area is proposed for commercial uses permitted by right in VM and VH: 5,000 square feet in VM and 2,000 square feet in VH. Larger businesses would require a special exception.

Design standards are added based on the Comprehensive Plan text.

Commissioner Councell stated we need to think about this. Commissioner Boicourt concurred.

Section 190-12.2: The provision allowing flexibility in front setbacks for infill development is modified to make application easier, but the intent remains the same.

### **Article III. Floating and Overlay Districts:**

Section 190-13: An explanation/definition of floating and overlay districts is added.

Section 190-14: The Affordable Housing District is renamed the Affordable Workforce Housing District.

Section 190-15: The new Critical Area Overlay District incorporates, reorganizes, and revises for clarity, requirements currently found in Article VI, Critical Area and several other sections of Chapter 190.

Sections 190-15.12 and 15.13 incorporate State legislation amending the Maryland Critical Area law for the Shoreline Development Buffer, include the 2008 and other revisions to State law.

Recommendations of Talbot County's Blue Ribbon Committee on the Critical Area are incorporated to allow increased use of shrubs and low vegetation, rather than trees, along the shoreline; to moderate the amount of mitigation necessary when expanding a structure in the Buffer; and allow a greater amount of planting credit for certain types of nursery stock trees.

The method of measuring required expansion of the Shoreline Development Buffer for steep slopes is modified to provide more flexibility for small or narrow areas of steep slopes. Retains the expansion of 4 feet for every 1% of slope but Planning Commission can reduce.

Shoreline Development Buffer must always extend 25 feet beyond top of slope, Section 190-15.12.B.5.

Commissioner Spies stated this is a set measurement. Is this something that can be approved by the Planner, or does it have to come to the Commission? Ms. Verdery stated that at eight feet, depending on the slope, it might be an additional 100 plus foot buffer expansion. It might be a small channel cut through at one area and it is not really appropriate to expand 100 feet around it so we would bring it to you for consideration. Commissioner Spies stated that if it is a set number and we get ten of them and it is all “aye”, “aye”, “aye”, then they should be handled by the Planning Director. But if there are going to be a lot of gray areas and we need to look at the maps and the designs, then he can understand. Those look like pretty measurable numbers that they can either meet them or not meet them. Ms. Huff stated they worded it “the Planning Commission may reduce it” and you can consider reducing it but she heard what they were saying. Commissioner Boicourt stated they could have the staff point out where the modifications were made and it could become part of the approval process rather than a waiver. Commissioner Fischer stated if it is a narrow channel coming through the buffer it either has developed naturally or has been cut there. He does not quite understand how they judge whether or not the channels would be conducting water from the whole property. Ms. Verdery used a channel as what a narrow steep slope could look like, but it could be a bluff. There is an extent to which this could be discretionary. Ms. Verdery stated she has some examples and as they work through the work sessions she will bring some examples.

Ms. Huff stated there will be some revision to the measurement of the expanded buffer based on highly erodible or hydric soils, actually something closer to Maryland current requirements that are contained in COMAR. More specifics on the modifications based on the Blue Ribbon Committee recommendations for alterations to develop sites in the Critical Area required that the buffer be established, which means be planted based only on the increase in lot coverage as opposed to the entire lot coverage. Impose greater credit than State guidelines for certain nursery stock and make our base case for it to the Critical Area Commission. Allowing shrubs and herbaceous perennials rather than trees between the dwelling and the shoreline for an area fifty feet wide with mitigation.

Commissioner Fischer asked if Ms. Huff had the page number for the hydric soils. Ms. Huff said it started at page 46 and continued to page 47. Commissioner Boicourt stated if we look at the second bullet with regard to nursery stock that would involve Elisa. Clearly there is going to be approved species already, presumably a good part of that is there are some of them more effective than others in reducing nutrient flow to the water body.

Section 190-15.15: Changes the name of “Buffer Management Areas” to “Modified Buffer Areas.” The Critical Area law now makes extensive use of the term “buffer management plan” for alterations and plantings throughout the

Shoreline Development Buffer, and this would have made it confusing to continue to refer to certain areas as Buffer Management Areas.

Revises the requirements for the Modified Buffer Areas to be more flexible in the placement of new accessory structures, so that they can be located between the principal structure and the reduced shoreline setback. Clarifies that all Shoreline Development Buffer requirements continue to apply within the Modified Buffer Area, except the requirements specifically modified.

#### New IDAs

Currently an IDA must be at least 20 acres

Maryland law allows for smaller IDAs

Proposed smaller IDAs

Section 190-16: The Easton Airport District is revised to require that development plans within "Airport Obstruction Zones" be sent to the Federal Aviation Administration and Maryland Aviation Administration to ensure that the height of objects will not obstruct flight paths. Also, more specific language is required for notification statements on final plats regarding the proximity of the airport.

Ms. Huff stated it is very unlikely that an application would come in with an object tall enough to obstruct patterns, but it is not impossible; a tower, a silo, a tree of the wrong variety that could grow tall enough. We have revised the Code to require that development plans be sent to the FAA and MAA and if County received any comments they will act on them. Also, it is required that notification be listed on final plats and stated specifically regarding possibly low flights overhead so that people purchasing them would be aware. We have to look carefully at the mapping of the overlay district. It should map the areas within which the MAA and the FAA would want to see a development plan and that would depend on the flight path. Ms. Verdery stated, based on that recent approval, we sent the information to the Easton Airport and they have recently sent out letters that will require easements that trees not be over a certain height.

Section 190-18: The Historic District text is made more specific and detailed and more consistent with federal guidance on historic resources. The requirement for Historic Preservation Commission approval of development within Historic Districts is clarified. The term "Certificate of Appropriateness," used in ordinances throughout the nation, is introduced as the vehicle for Historic Preservation Commission approvals.

#### Section 190-20: Added a Village Overlay District:

- Can be applied only over the VM, VH and VR districts
- Has no impact on permitted users
- Provides modified, smaller lot sizes for areas with public water and sewer (density 2 dwellings per acre; minimum lot size 20,000 square feet.)

- Authorizes the County Commissioners to adopt Village Overlay Design Guidance for a specific village where the overlay is applied. The Design Guidance could include modified lot sizes and setbacks and additional site standards specific to the particular village.

Commissioner Boicourt confirmed the reason for this appears to be the result of the kind of studies Mr. Salinas was involved with in Bellevue and Tilghman. He stated he is in favor of that. The concern he has is that they think very hard on this Commission, to be extremely careful that there is no get out of jail free regulation. Commissioner Spies stated he would want to make the regulations more stringent than less stringent. Either way all the regulations are put in there and discussed for a reason. Commissioner Councell stated if you were to overlay a district and say yes that makes sense or no that doesn't make sense. Commissioner Boicourt said it would be good to review the Tilghman and Bellevue reports, that's an example of where it would be really helpful. Mr. Salinas said the Bellevue Master Plan is a really good example of that because they decided on an area where they will intentionally have an overlay applied on a specific area of Bellevue. They looked at what properties were listed in the Maryland Historic Trust, they looked at lot sizes. They were able to identify a core in Bellevue which could have an overlay district which would help keep the character of Bellevue. But if you go to a different village there might be a different process in how to determine that with a different criteria. Each potential overlay for each village is going to be unique to the character of that village and will be measured carefully. The Planning Commission and the County Council will have to consider if they are going to apply an overlay on any particular village. Commissioner Boicourt stated we have encouraged in the Comprehensive Plan the development of master plans. If you have a master plan in hand you can see how it fits.

Ms. Verdery stated not all villages are required to have a master plan. But we will go into each village or each area to have individual meetings as our next phase in the next mapping process because we are going to have to choose one of these three villages that was appropriate for overlays. There will be no VC left. All of them will have to make sure there is an appropriate village designation. There will be a community process first and then we will bring it to the Commission for discussion.

Commissioner Spies stated that he is concerned. He wants to be very careful that they don't allow a process to supersede the current zoning regulations. They want to have a clear understanding of how those overlays would be brought forward even after the current Commissioners are no longer on the Commission. Commissioner Fischer said getting a temperature of a village is very hard. Bellevue had a united group and worked together. But in general understanding what a village wants is very hard to do.

Ms. Verdery stated it is our obligation to go into those villages and hear all sides before we even bring it to the Commission.

Commissioner Spies stated that they have done one of these in the very recent past. We have a flow chart on how to do this and we were all comfortable with it. He stated that would be a necessity for him to be a part of this. That was about ten different steps of approval, which at the time he thought was excessive, but it does have an importance and it protects the process. Commissioner Boicourt stated this is clearly an issue that resonates with the Commission and bears further consideration and putting some further protection in the Ordinance. Ms. Huff stated that the basic process for an overlay district is the zoning map amendment.

Commissioner Sullivan (tape) anything involving airport not going to happen quickly.

## **Module 2:**

### **Article VI Nonconforming Lots, Structures and Uses**

Section 190-41.3: New text clarifies that an abandoned nonconforming structure (abandoned for more than 12 consecutive months) loses its nonconforming status and cannot thereafter be restored, reconstructed or used. This provision applies clearly to nonconforming uses; the Planning Officer has interpreted it as also applying to nonconforming structures.

Section 190-41.4: Refinements to the text allow flexibility, when replacing a structure “in kind,” to alter the design or configuration as long as the structure stays within the same footprint and height.

Section 190-42.3: Increase the allowed expansion of a nonconforming use, subject to Board of Appeals approval. Currently a 20 percent expansion of the building area can be approved, up to 1,000 square feet. The revisions retain the 20 percent limit and removes the 1,000 square foot cap. The revisions also increase from 10% to 20% the expansion that the Board of Appeals can approve of an outdoor area (such as parking or storage). The Board of Appeals process will provide safeguards for neighboring properties.

Commissioner Spies asked what the current time frame is for abandoned structures. Ms. Verdery said it is twelve months for a non-conforming use, but it is not clear that it is the same twelve months for the non-conforming structure so we are clarifying it for the non-conforming structure. Ms. Huff said we also added language that if a use is actively being marketed or repaired or upgraded that period of use is not abandoned.

Section 190-44.1: Provide that structures nonconforming to lot coverage requirements can be expanded vertically (such as a second floor addition) without variance approval, since the addition does not increase the nonconformity.

Ms. Huff said they spoke with Critical Area staff regarding this and they seemed supportive. Commissioner Hughes said in practice they did not deny any of those type administrative variances. Commissioner Fischer stated there was some concern in the Sherwood neighborhood, by the residents, of lots being purchased and the house being torn down and some “here I am” house being built that blocks the view which changes the character of the village. He did not know what control they had over that, but there should be some way to protect the village character and residents. Ms. Verdery said the bulk requirement and the height of forty feet would apply. If it’s a matter of being able to protect the overall height limit that should probably be addressed through the village standards. Mr. Salinas said that is a different set of requirements to rebuild that structure without having to go through a variance structure. Ms. Huff said an “in kind” replacement would have to have a similar roof configuration. Mr. Salinas said otherwise they would have to go through the Commission.

Section 44.2: Add a limitation that if a structure is nonconforming (nonconforming to setback or lot coverage requirements), it may not be converted to a more intense use.

Section 44.3: Provide more flexibility by specifying that expansion of a nonconforming structure requires only a minor variance (Planning Director approval rather than Board of Appeals) if the expansion does not increase the lot coverage by more than 20 percent. (Current limit for minor variances is a 20% expansion of the floor area. The proposed text will allow larger additions if they are two story.)

Simplify the regulations by combining minor variances and administrative variances into one category, called minor variances. Any minor variance to Critical Area requirements will continue to require Planning Commission review.

#### **Article VII Administration:**

Ms. Huff stated there were three primary reasons for revisions: to expand opportunities for administrative review; ensure public notification for major projects; and addressing short term rental procedures.

Section 190-49.1: Omit the seldom used “Master Plan” provision for major subdivisions and add the “pre-application meetings” the option of discussing future plans for a larger site that encompasses a proposed development.

Section 190-50.5.D.5: In the tabulation of growth allocation for the County and towns, the revised text shows not only the allocation assigned to the County in 1985, but the acreage of allocation remaining in each category.

Section 190-53.5: Expand the range of applications eligible for minor variance by increasing from 10 to 15 percent the amount by which a bulk requirement can be decided by the Planning Director rather than the Board of Appeals. A Planning

Commission recommendation is required for the minor variances that are between 10% and 15% of the requirement being varied.

Section 190-53.5: Add provisions to address modification of approved variances. The provisions provide clear procedures to follow if the exact plans for a building or other improvement are not identical to the plan approved by the Board of Appeals, but the amount of the variance needed does not change.

Section 190-55.2: For uses requiring a site plan, allow small accessory structures and outdoor use areas (no more than 500 square feet) to be approved using the simpler administrative variance procedure.

Increase the expansion that can be approved as a minor site plan from 1,000 square feet to 3,000 square feet. A minor site plan can be approved by the Planning Director. The Planning Director can still bring such plans to a public meeting of the Planning Commission.

Commissioner Fischer stated he felt like that was a big jump. There are many homes in the County that are less square footage than that; he would like to see the number decreased. Ms. Huff stated these are commercial, industrial projects only, homes do not come to the Commission for site plans.

Ms. Huff stated there will be more detailed, extensive landscaping plans.

Commissioner Spies stated if there are no special exemptions or things like that, the County is pretty stringent. We get so many things that come to us with no comments. Even if they met all the requirements, and the Director was not happy, it can still come to us. Most of the time they are asking for a special exemption, not to plant a tree or a sidewalk. It is usually people asking for a special exception. He said 3,000 square feet does not sound that bad for him.

Ms. Huff said that they are hearing from people about the time and the expense for the process. Ms. Verdery stated they have research from surrounding Counties. Commissioner Sullivan stated 500 square feet was very small, he felt the Planning Officer should have more latitude than 500 square feet.

Section 190-55.5: Require public notice of TAC meeting for major site plans.

Section 190-55.6: Require applicants to hold a community information meeting for major site plans, prior to submitting the plan to the Planning Department.

Commissioner Sullivan asked how you define a community meeting? Ms. Huff stated for major site plans they come to the County for a pre-application meeting. They must hold a meeting in a location convenient to the Community and invite the public and submit the notes of the meeting with the application. Commissioner Sullivan asked how do you define Community? Is it the entire

696 County? Is it people within 1,000 feet? Ms. Verdery said it is spelled out in the  
697 Code, it is adjoining property owners, across the street. Commissioner Spies  
698 asked if the public would be allowed to participate? Ms. Verdery stated no, but  
699 they could write a letter. Commissioner Boicourt stated they could come before  
700 the Commission. Commissioner Spies stated not that they are not going to have  
701 good advice, but you are going to leave the meeting with pages of notes then you  
702 have to change your whole plan to move it forward in the right direction. He is  
703 concerned it will get people fired up before it is even ready. At TAC you say I  
704 have this idea, what do you think, what can I do to make this a safe and quality  
705 project? Sometimes the owners are just a few weeks themselves into the process  
706 and it is really kind of a meeting to allow the owner to get all of his balls together  
707 to move forward. Those meetings are stressful enough, at least he stated it was for  
708 him. Ms. Verdery stated this is only for a major, a brand new business in a brand  
709 new area where it never existed before or a very large expansion. This is  
710 associated with after you come into the County and have had a pre-app and we  
711 have given you general guidance as to what needs to be changed, addressed, done  
712 to handle it. And because of the potential for the major impact for a new business  
713 in the community we want to make sure of the notice. Commissioner Spies stated  
714 he has been to a few of these and to him it seems too early and it seems like it  
715 could cause more issue than help. Ms. Verdery stated it has always been in the  
716 code but not been implemented, so they are trying to figure out a way to require it  
717 for certain types of activities. Commissioner Fischer asked what was the stimulus  
718 at this time? Ms. Verdery stated that it is an opportunity for the public to have an  
719 earlier input. She stated they are hearing from the public that their opportunity for  
720 input is happening too late. The commitments have already been made by a  
721 property owner, they have already gone to architects and engineers, certain  
722 commitments have been made, people are buying property thinking they can do  
723 something. The public wants to have an earlier input. Commissioner Fischer said  
724 there is no input. Ms. Verdery stated this different, this is a community meeting,  
725 there is input, this is not the TAC meeting. Ms. Verdery stated that a TAC  
726 meeting has always been required for major site plans. The community  
727 information meeting is where the change is.

728  
729 Commissioner Sullivan asked at what point is the major site plan information out  
730 in the public. Ms. Verdery stated when you submit an application and the project  
731 is placed on the Technical Advisory Committee meeting agenda, the mailing of  
732 the TAC agenda to the adjoining property owners, and the property is posted.  
733 Commissioner Sullivan asked why are we requiring the applicant to essentially do  
734 the same thing? Ms. Verdery stated that is more opportunity for them to meet  
735 locally with the individuals. As specified, it has to be at a convenient time and a  
736 convenient location, where residents who will be impacted will have the greatest  
737 opportunity to attend. They may not have the opportunity to attend at 9 am on a  
738 week day. Commissioner Spies asked if it is a lack of opportunity or a lack of  
739 communication? Mr. Sokolich stated it is a little bit of both. With the TAC  
740 meeting it is the opportunity to get together everyone who might be involved with  
741 a project from State Highway to Critical Area Commission, the Environmental



Health Department, Environmental Planning, Public Works, it is an administrative process of reviewing the application. A community meeting is a little more, "what is your personal interest in it?" is this too high, too close, too intrusive or is there another way to solve this situation or view that problem. That is the difference between the functions of the meetings. Commissioner Sullivan felt it is a little early in the process to be making the applicant hire a hall to accommodate all these people to come and meet with the developer for the property. You get bogged down with issues and people's concerns about something. And requiring the applicant to do it when we have all these meetings scheduled and the facilities to do it. Put it out to the people and say we are going to have the meeting on X day, come talk to us. But they have lots of opportunities to assist us through the process. Commissioner Boicourt stated the suggestion might be that if in fact we do notify the surrounding property owners of the TAC meetings if that is adequate to solve that problem. We need to consider that when we have the work sessions. Commissioner Sullivan clarified that did not mean they were going to have people come and make comments at the TAC meeting. Commissioner Boicourt stated no, they did not want to slow down the process, they could submit written comments. The question is if this is the mechanism to solve the problem. Ms. Verdery stated right now the public meeting is between the pre-application meeting and before you make your application submittal. We can consider if we move forward if this is the appropriate stage. Maybe once it goes through TAC and Planning Commission, if Planning Commission feels it has a more significant impact to the community they can send it back for a community meeting. Ms. Huff suggested having a registered list of Community organizations who give their emails and we send out emails each month of our Agendas or notices of development proposals within the area of interest. The organization has to take the initiative to request inclusion on the list. Commissioner Sullivan stated the responsibility lies with the people. We set up something earlier in the process which says here is the project, if you would like to meet with the developer or have comments on this you can email us, you can text this number, you can call the developer, you can come into the planning office to discuss it. Just give them the opportunity. If they just don't do it, we can only give them the opportunity. In the end, if the people who are potentially affected just don't bother, caveat emptor. Commissioner Spies stated he sees this creating nightmares. He sees someone going to a meeting getting told "my viewshed was not going to be blocked", "I was told there wasn't going to be rainwater running through my yard," "I was told this at a public meeting." If you have something before a major site plan has made any investment on engineers, blue prints and all that, they can tell someone, something, to sell their project, and believe me it will be community friendly. So from that point on they feel safe. Then once the blue prints and engineering comes through it is totally different. We get that now through a much stricter process. And we want to have a public meeting before any of that requirement, so people don't have to spend money on research, engineering and blue prints? Commissioner Boicourt stated this is obviously an issue we want to come back to, let's do so. Let's keep moving on here.

Section 190-56.2: Clarify the requirements for installation of landscaping, road improvements and other improvements to ensure that the financial security provided by an applicant will cover full costs of installation.

Section 58.2: Define two types of short term rentals: Type A, part time short-term rental, for dwellings that are the property owner's primary residence for at least 6 months annually, and Type B, full time short term rental, for dwellings that are the property owner's primary residence for less than 6 months annually.

Require additional information on short term rental license, including floor plan and copy of the standard lease agreement and house rules. Acknowledgment that all advertisement must contain the license number.

Require that notice of the short term rental license application be sent to the Property Owner's Association or Covenant Administrator, if applicable.

Commissioner Fischer asked if the County provides any assistance to the owners of the home regarding house rules, use of the property? Ms. Huff stated that the County would not provide rules, but one thing that would be pretty clear is to have a good off-street parking requirement and a turn-around area. But these license applications will be open to the public to see.

Establish the Short Term Rental Review Board as an advisory board to the Planning Director that holds public meetings. Require a public meeting and recommendations on any application for a Type B license, any application for renewal if there have been any written complaints made, and other applications if requested by anyone receiving notice.

Require annual renewal of Type B (full time) licenses and renewal every two years for Type A (part time) licenses.

Authorize the Planning Director to impose conditions on landscaping, fencing, parking, lighting, hours of use for outdoor areas and other features. These items will be directed by land use standards.

## **Article VIII. Procedures for Subdivision of Land**

Section 190-66.2: Expand the plat revisions that can be processed as minor revisions, which are decided by the Planning Director rather than the Planning Commissioner.

Commissioner Boicourt wanted to emphasize the readability issue. As the oldest member of the body he stated he should know a lot of this that I don't and the readability forced him to get it in a lot better order. The tables are extremely helpful. The uniformity of the presentation makes your eye go back and forth very easily from the tables to the text. He stated he finds it a huge improvement.

Commissioner Boicourt asked for comments from the Commission and from the public.

Ken Mann, Eastern Shore Vacation Rentals, stated he would like to wait and hear what the other people's concerns are.

Monica Otte, 229 Madison Avenue, St. Michaels. She stated there has been a lot of interest in this topic. She appreciates all the opportunities they have had to comment. Ms. Otte stated she does see in the draft rules some response to the comments. She lives next door to a house that was used as a short term rental in Rio Vista. The houses in Rio Vista are 25 feet apart. The community has association rules that do not allow short term rentals. This property was advertised in VRBO and had renters coming in from March to December for periods as short as one night. They came in for weekends, weeks, or 4-5 days. There were periods where the house was occupied for 35-36 weeks, and sometimes there were parties. The property is a 3 bedroom house converted to a 5 bedroom house, so 10 people could rent, which often might mean 10 vehicles. She stated she saw in the draft rules it would require applicants to state whether or not their rules comply with any Bylaws. She thinks the Covenants and County Code Provisions should be in the lease, should be in the house rules. For example there are rules in the Code today that are not being considered for change that say that short term rentals cannot have unconfined pets. There are maximum occupancy rules that were being violated. Those should be in the lease. Those should be added to the rules. The idea of having a public meeting available through the Short Term Rental Review Board is a good idea. She stated that today a permit can be granted without an opportunity of public comment. When you receive a notice you can object in writing. To have it set up for an open meeting and public comment is a very good thing. The only concern she has is that the way the rules are drafted is the Review Board does not have the final decision, they only make a recommendation. Where does that leave a neighbor. There is a \$750 fee to appeal, which seems very exorbitant, and discourages neighbors from appealing. Especially when you compare that to applying for a permit that is \$250 and \$100 to renew. One thing that should be considered is not making it so difficult to appeal. Easton adopted an ordinance for short term rentals last year. They allow short term rental permits only at the property owner's principal residence. She stated she can understand why Easton took that approach, you have to deal with your neighbors. You are going to be much more concerned how your renters impact your neighbors than non-residents who buy property and use it just for short term rentals. Short Term Rentals is not a right it is a privilege.

Commissioner Spies asked if the community covenants do not allow short term rentals. Ms. Otte stated they allow long term rentals, do not allow short term rentals. Commissioner Spies stated the Community covenants did not allow short term rental and they are still renting? Ms. Otte stated this is not going on because after five years the County denied the permit, the person continued to rent,

without a permit, and the County took them to Court. But the County did issue the permit, even with the covenants. Commissioner Spies stated that the County has no ruling power over covenants. But he explained their covenants outside of this Board has weight.

Ralph DeMarco, Monica Otte's husband, 229 Madison Avenue, St. Michaels, Maryland. He stated that when they denied the short term rental the people continued to rent. He worked with Mr. Graham the County Compliance Officer to monitor the situation for him. They also levied quite a substantial fine against them. What caused them to stop renting was they ran out of rentals. Enforcement of the rules did not get them to stop. Somehow VRBO cancelled their listing and that is what made them eventually stop. He stated he worked with Mr. Graham to monitor the situation. It is not his job as a neighbor to do this. In general, monitoring situations that occur at these rentals needs to be addressed in real time on a 24/7 basis from some type of hotline where somebody from the County can come by and address this. Right now all you can do is log this until somebody in the County comes back to work on Monday who can do something about this. It would be a good idea to have random spot checks on short term rentals. If you need extra personnel in the County for this you need to raise the license fee.

Commissioner Sullivan asked if the covenants do not allow short term rentals, does it have any remedies? Over several years he stated they lodged complaints with an Attorney. Since they had a license to rent, nothing could be done.

Steve Shimko, 225 Madison Avenue, St. Michaels, Maryland. He stated the suggested changes to the County Code for Section 58.2 helps to a large extent. The two types of short term rental classifications are a step in the right direction. One thing he would like to see is someone whose home is their primary residence is the number of short term rentals that can occur in a year. Mr. Shimko stated that trespass on their property was an issue that occurred. The DeMarco's spent a large amount of money to put a living shoreline on their property and the renters were digging in their shoreline. Mr. Shimko stated renters got on his property because there were snakes at the rental property. It takes away from the enjoyment of your property when people are coming out on your rip rap or coming up on your shoreline.

Janet Shimko, 225 Madison Avenue, Rio Vista, St. Michaels, Maryland. She stated she has experience living next to a short term rental. It was an interesting experience and has forced her to become involved with the 190 Program. It also forced her to interact with the homeowners who were renting in ways she did not want to. She found that there is real disparity on the goals of the homeowners and those who have the short term rentals. Our goals are quality of life. As opposed to the income coming into the County and realtors and service companies who enable them to rent and the homeowners who in one year we believe make as much as \$80,000 in short term rentals. There has been a lack of oversight, this specific case only applied for a license for five years, they rented for fifteen years

prior to that without a license. They applied last year but were denied. The burden of those rentals fell on the neighbors to make sure that the Codes, the County Codes were enforced. We only had the inspector for the final year. If a license is issued by the County, the County has to provide oversight of that licensure. By inspections, whether they are scheduled, and of course complaint driven inspections. If it is a County Code violation it might be a good idea that we hold off on further rental of that property until it is addressed. Being addressed in front of a Committee or Counsel would be great. The license, the fines for violating codes should be enforced. Last year they rented for over two months, daily sometimes, and there was no fine. Fines need to be enforced. She stated maybe we need to increase the application fees for licenses to support a group of inspectors, \$700-\$1,000 a year. The entire County, the entire United States is having issues with these. Someplace in Montana has issues and the way they addressed it was, if you have covenants or home owners associations, you have to list it on your application. If a person violates their homeowners regulations they are probably going to violate the County regulations also. She stated all of the above will help our quality of life as primary residents here, who live here, who shop here, who work here, the folks who are here versus the folks who are here for income producing only.

Dwayne Hillman, Chairman of the Government Relations Committee, Mindshare Board of Realtors. Read letter into the record. (Note: Commission members have received a copy of this letter.) Commissioner Fischer noted that the letter the Commission received is not the same as the one received and requested that the Commission receive a copy of the letter read into the record.

Jay Eastman, 27480 Ashby Drive. He bought his house 11 years ago with anticipation to retire here. Given the short term rental policy he is not likely to retire here. He is a weekend resident. He feels we can improve the STR program if you make the right moves. Short Term Rentals have changed in light of Airbnb. He stated sadly, he is an investor with Airbnb. The issue with today's internet driven short term rentals is there is very little screening that is going on. With the way the County has set up the rules it is a recipe for disharmony among neighbors and among people who are renting and those who do not want to rent. The current regulations do not allow Ms. Verdery and her Committee to proactively deny new applications. There is not an ability to do that. If you read what is in the current regulations, it requires a history of serious and repeated violations. All of the meetings do nothing, and all of the gathering of information does nothing. Because, until somebody has a repeated history of violations they can't deny the application. It seems to him they should be able to judge the suitability for a STR, that is currently not a part of the program. The way things are written today the burden of proof and monitoring are put on the neighbor. Mr. Eastman stated many of us have jobs, we get paid on an hourly or project basis. He is currently working for his neighbors STR by having to report infractions. He gets paid money for his day job. But his neighbor makes money on his STR. When Mr. Eastman calls in complaints to Talbot County he is told he needs to call the agent or the owner of

the STR as well, which has not been a joyous experience. This has really been enabling the violation of private contracts. If you look at private covenants a lot of them say no business use. Even though residential use is residential, it can still be a business, you can check the Deep Creek decision. As a Planning Council you are going to have a lot more of these STRs. So how are you going to control these in an era when most of the regulations, especially in private communities, were written well before this stuff ever existed. Mr. Eastman stated he appreciates the Midshore comments. He is not sure the case has been proven that short term rentals rather than general attendance at hotels and B&Bs which are all licensed by this community are the things driving all those economics. Two of his friends who want to retire and thought about coming to this area asked him about coming to this area. They asked Mr. Eastman what his experience has been in Talbot County. His response was sincere, highlighted among other things the STR problem. They are not excited about buying expensive waterfront property only to have Chevy Chase living next door. Mr. Eastman stated he bought his house eleven years ago. It was destroyed by a water pipe break and it took him two years to rebuild. The house next door was purchased by an STR which owns multiple properties, an LLC. The first summer he witnessed fireworks shot over his boat and osprey nests. A pool was built too close to the property line, probably in violation of the local covenants. He stated he has made multiple complaints to Planning and Zoning and the agents, they switched agents at one point. What ultimately happened in a series of hearings, one which was conveniently scheduled between Christmas and New Years when he was on vacation, was he was told that he needed more documentation. The lesson he learned was more documentation. On his jog one Saturday morning he took a picture of the 13 people on the property. As he headed off on his run he was approached by a man half his age and twice his size. He told the young man to observe the property line. The young man threatened him a number of times. Mr. Eastman called this in to the County Sheriff and Ms. Verdery and was told he needed to report it to the Real Estate Agent. The Real Estate Agent asked why he was taking pictures. He asked what about the person who trespassed and threatened him. The agent told him he deserved it. He was advised he should inform the Mid-Shore Board of Ethics. He did not want to get anyone in trouble, but this was bad behavior. He called and was informed he had to write a letter and explain what Codes were broken. They sent him fifteen pages of codes. He asked for help in understanding which codes he should use. Eventually the reply came back from the counsel, upon recommendation of our lawyer they will not answer your question. We need several things. People do need to be primary residents, if they are primary residents they will be careful about how they treat their neighbors, how they run their business, how they handle interactions. We have to move away from a requirement that the neighbors have to monitor and phone in complaints directly to the STR themselves. This sets up friction between neighbors in a big way. We should be required, as the public, to notify Talbot County. It is up to Talbot County to figure out if they are complying as they should. They are granting a privilege when granting a license, it is not a right. A lot of these communities have private roads. You should have to have access to a public road. If you have a

1018 private road the rest of the neighbors are paying for the intensity you have  
1019 created. You should ask the question, are you in compliance with local covenants?  
1020 He understands the County cannot enforce them, but you cannot go out of your  
1021 way to grant permits in violation of them. Why does that matter? Because the  
1022 STR guy gets to hire lawyers and deduct those expenses as business expenses.  
1023 The neighbor has to hire a lawyer, looking at \$30,000-\$40,000.

1024  
1025 Commissioner Sullivan asked if he reported the threat to the Sheriff's Office. Mr.  
1026 Eastman said he did. Commissioner Sullivan asked if they did anything about it.  
1027 Mr. Eastman said that was the next day, Sunday, and the person had left. He said  
1028 he is reluctant to call authorities on things like this. He is very reluctant to call  
1029 County resources for most of the issues with neighbors.

1030  
1031 Sarah Eastman, wife of Jay Eastman, stated they have been astounded by the lack  
1032 of respect and the destruction of their family life here. It is such an enormous  
1033 burden to have stranger danger living next door to you all the time. She begged  
1034 the Commission to do due diligence. She said they were dead set on retiring here,  
1035 they love it here. Ms. Eastman stated they just redid their home and this has been  
1036 so disturbing to her family. It is a terrible situation in their neighborhood. She is  
1037 not saying that they are against short term rentals all over, but they do not belong  
1038 in certain neighborhoods that do not allow them.

1039  
1040 Commissioner Spies stated that he is going to ask for a requirement that the  
1041 applicant list if there is a covenant. Will we have the ability to rule that the permit  
1042 meets the standards of the covenant? Or are we just asking for the evidence in the  
1043 package? Ms. Verdery stated it is part of the documentation, we do not make that  
1044 decision. Commissioner Spies asked if a community pulled their board together  
1045 and got the votes which said no short term rentals were allowed in that  
1046 community. Mr. Coopersmith stated this is a question that is currently under  
1047 review. The County currently does not enforce covenants. Obviously there is  
1048 some concern about that. The courts enforce covenants. Commissioner Sullivan  
1049 stated that if you are stating that if you are requiring that an applicant has to be in  
1050 compliance with their covenants and they give you evidence they will not be in  
1051 compliance then you say sorry. Mr. Coopersmith stated that would be fine but  
1052 many covenants are not crystal clear, there are rules that govern updating  
1053 covenants. It is something we need to think about how to address. Commissioner  
1054 Spies asked if someone comes to them we tell them as a community you need to  
1055 input into your covenants that short term rentals are not allowed. They come back  
1056 and we say that does not do anything.

1057  
1058 Mr. Eastman said his lawyer said you cannot go back and change the covenants to  
1059 limit the use of the property.

1060  
1061 Ken Mann, majority owner, Jim Campbell General Manager, Debbie Lipscomb,  
1062 former owner and Marketing, Eastern Shore Vacation Rentals. Eastern Shore is  
1063 wholly owned by residents of Talbot County and employs dozens of residents of

Talbot County. It has been in business almost 14 years and has booked about 10,000 reservations, generally seven night stays for short term rentals, generally without a complaint. He stated he is happy the County is open to input at this early stage. Like all good things and STRs are good things, STRs come with potentials for challenges. From what he has heard it is with one or two homes, but these people are entitled to enjoyment of their homes. But you shouldn't be throwing out the baby with the bathwater. He does not believe the proposed language is needed. Not one single new word to the Code is required to solve any of the issues addressed here. He thinks the County has a real issue with the idea about the two different classes of home ownership. The Constitution guarantees us equal protection under the law and he does believe we can begin to discriminate against property owners depending on how many days of the year they reside in their home. Whether you live here one month or nine months you are going to rent your home the same period of time. People who live outside the County use professional management and don't have issues with their home. People who live within the County are not likely to rent the house they live in. Mostly you have heard that people don't care because they don't live here. We represent 50 homeowners who live here in Talbot County who care deeply about Talbot County and care about preserving their home. If you would enforce what already exists in the general land use and occupancy laws: noise laws, pets be contained and on leashes, agent within 30 miles, review board. None of those things are being enforced or implemented. Mr. Mann stated he has heard several people speaking about pets, too many people on the property, parking. He also pointed out trespassing, physical threats, occupancy, are not unique to short term rentals. How many people have threatened their neighbors? How many of them are your next door neighbors, All of the short term licenses currently in the County would be significantly damaged by this new language. Mr. Mann stated Mrs. Eastman stated she would like to see some items in the agreement between the renters and the owners, we do those things. We make them aware of those things. People coming from the city might not be aware of how far noise travels. It makes no economic sense to buy investment property with the intention to rent them. No one is running out to buy waterfront property to rent them. Mr. Eastman stated he submitted a letter to the County Council yesterday and he is providing copies today. He would ask the Commission to consider the opinions of those businesses and homeowners who operate in this space with some 10,000 successful rentals. As residents and property owners themselves, they do care.

Commissioner Sullivan asked if we know the percentage of owner managed rentals versus professional rentals. Ms. Verdery said she did not know off the top of her head but she could get the information.

Commissioner Spies stated we need to review the guidelines of how to enforce. If a house has grass that was not cut all spring we go to the owner for enforcement. The end goal is this is something that adds revenue to the County and we can't let it go without being regulated. If we can form a committee to come up with some guidelines to eliminate this issue. He stated he is not in favor breaking STRs into



two categories. He is more in support of having regulations set to deal with the issues at hand.

Commissioner Fischer stated real time enforcement is going to require cash. You are going to need somebody who can respond.

Commissioner Spies stated if an entire community does not want a short term rental in their community and all of a sudden there is one, it is going to be an issue whether it is a real issue or not. So the licensing and permitting to make sure it fits in a community is paramount. Commissioner Fischer stated it is still important that someone is available to respond when there is an issue.

Commissioner Sullivan stated according to the Departments of Economic Development and Tourism in fiscal year 2017 short term rentals contributed \$150,000 in accommodation taxes. That would certainly cover an additional enforcement person. One of the things you probably should look into is that if somebody has the right to rent their house, certainly you have HOAs, but you have to have somebody who is accountable for that property.

Commissioner Boicourt stated we should wrap this up and remind the audience that there will be more work sessions on this and future hearings.

Holly Fine stated you have to understand these people are on vacation and there are a lot of people out to have a good time. They bring coolers in. They are not eating at the restaurants. They are not part of our economy. The part of our economy is the tax they are paying to the County. We have to understand it is a vacation.

Commissioner Boicourt asked for public comments; none were made.

## **5. Discussions Items**

## **6. Staff Matters**

Ms. Verdery stated the village modification mapping will be introduced before the Council on October 24<sup>th</sup> and the Planning Commission will vote on November 1<sup>st</sup>.

The Planning Commissioner will need to schedule some work sessions for the modules for NextStep190. Ms. Verdery stated she wanted the Commission to hear some of the comments from the public.

Commissioner Spies asked if Short Term Rentals should be adopted in the NextStep190 process or if it is something we need to introduce separately through the Council. It seems like a big change. Ms. Verdery said it is a discussion to be had. The concerns are probably numerous but able to be relatively narrowed to make certain changes even if we don't make all the changes, we can make some changes to make a better process.

Commissioner Spies stated with making a separate class, it seems like we are making a lot of changes other than rewrites. Ms. Verdery said that recommendation can be made to the Council. We did the same with noise, we took it out and made it separate so that the Sheriff's Department could enforce it. We need to get into it a little bit to figure it out. We are asking our consultant to listen to the work sessions. Commissioner Fischer stated this seems to be a discussion across the County at this time. Ms. Verdery said we need to sit down and get feedback to make this decision. We will also be setting up work sessions for modules 1 and 2.

Ms. Verdery stated we will also start community meetings in the villages for the village zoning. She stated that means whether a village overlay is or is not appropriate for their area; design standards, density, land uses, those type of things moving forward.

Commissioner Sullivan asked if the redrawing has been approved. Ms. Verdery said that is what the Council will introduce on the 24<sup>th</sup>. Their public hearing will be November 14<sup>th</sup> and hopefully approved the end of November based on how much input they get.

Ms. Verdery asked the Commission their preference for day, afternoon or evening work sessions. It was decided that 5 pm would be a good time. It was determined among the Commissioners that Wednesdays were good. It was agreed to have work sessions on Wednesday, October 18<sup>th</sup> at 5:00 p.m., Wednesday, October 25<sup>th</sup> at 5:00 pm and a continuation work session at the Planning Commission meeting on November 1<sup>st</sup>

Commissioner Councell stated he will be gone the first three weeks of December.

Commissioner Spies stated he will also be out the first week of December, returning December 6<sup>th</sup>.

It was decided to move the December meeting to Thursday, December 7<sup>th</sup>.

Ms. Verdery stated October 5<sup>th</sup> is the Joint work session on Easton Point to hear what each other is looking for and expects. The Town has invited the County Planning Commission to attend. Mr. Fischer and Mr. Councell will be in attendance. Mr. Spies asked Ms. Verdery to explain the deadline. Ms. Verdery stated the annexation agreement for the six properties in Easton Point stated they had six months to develop alternative districts. If this legislation is not adopted by the Town by December it reverts back to what it was annexed in as, which was general commercial. This allows them to do whatever is allowed under general commercial at whatever height is allowed at general commercial. Commissioner Fischer questioned if that means we want them to be able pass the plan as it stands. The diagrams in the blue corridor showed: will they have to be passed or just the language? Commissioner Boicourt said we need to go there and ask the questions. Commissioner Fischer both privately and publicly asked, where were you. They have an interest there both literally and figuratively. Commissioner Fisher thinks the Town and the State made a mistake showing us those diagrams. He thinks the diagrams are inconsistent with Easton and the Eastern Shore. But what do we do? We just hold our breath and turn blue, the deadline goes past and we are back to a worse situation.

Commissioner Boicourt stated he is not sure of the answer to this. Is the written portion of the specifications proper to allow what we want to be built there. Ms. Verdery stated she did not know what their ability to extend the deadline is. Commissioner Fischer stated the only card we really have is the land. Commissioner Boicourt stated we would benefit from the conversation. We need to keep voicing our opinion and let the pieces fall where they may. Our Council is clearly interested in the process and interested in the outcome. Mr. Salinas stated a lot of people did not like the privately funded Prager plan. What the Town said was they did not necessarily agree with everything either, but they pulled out some things and put in what they thought was acceptable. The Council's strongest reservation was they liked the heights better in the Prager draft than the Town's draft. Of course they have other concerns about the landing and the boat ramp. Commissioner Boicourt stated the Town is in a weak position because they are using the illustrations from the original plan. The problem is they don't have the capability to produce an illustration of what they really want and we are all acting negatively against that. Commissioner Fischer stated that the deadline of December or January is to adopt something. We hope it doesn't include the blue corridor. Commissioner Sullivan stated that the blue corridor comes down to our landing. Commissioner Boicourt stated the Council has stated exactly that, they are not going to change unless the Town changes. Up to this point we have been fairly friendly. Commissioner Spies stated it is important that we are not building something and moving our successful businesses from one area to another.

Ms. Verdery stated the Maryland Planning Commission Meeting will be on November 2<sup>nd</sup> and 3<sup>rd</sup>. Ms. Verdery has been asked to sit on the solar panel because of the legislation our County's drafted.

## **7. WorkSessions**

## **8. Commission Matters**

## **9. Adjournment**—Commissioner Boicourt adjourned the meeting at 1:12 p.m.